

ed; and finally determined—three concurring and two dissenting—that the law upon this subject is, as we have before recited. It is to be regretted that in a judgment of such consequence to the community, and the parties, the whole court did not concur. The public might have been more content with the decision, and the memorialists might not have considered that judgment a grievance. But a majority of the judges always pronounces the judgment of the court. This is the universal rule in our State—and we cannot yield our judgments to the propriety of disturbing that decree, merely because it was not acquiesced in by the whole bench. After an examination of the law by the very eminent jurists composing the Court of Appeals, and the great consideration which they appear to have devoted to the case, it would ill become this committee to sit in judgment upon the construction which it has received from them. It is not competent for us to deny that the marriage of a lunatic is voidable only, and not absolutely void; and that it can be annulled only in the manner, and under the circumstances stated by the Court of Appeals.

If we grant a re-hearing, it presupposes that the court may have erred, and that their judgment requires correction. The committee think such an assumption seeks to destroy the barriers which now protect each department of the government from encroachment by the other; and that even this indirect and qualified interference by the Legislature with the Judiciary, should not be encouraged. The committee express no opinions upon the constitutional power of the Legislature to grant such relief as is asked in the present case. They speak only of the impolicy of such legislation. It is our province to enact laws—to the courts is assigned the no less responsible duty of expounding them. Their peculiar organization renders them the most safe and suitable depositories of this power; and every step of any other branch of the government towards its assumption, tends only to hasten the time when any distinction between them will cease to exist, and when all will exercise an equal and concurrent jurisdiction over the subjects heretofore confided to some one of them. Such a result cannot be desired. The genius of our institutions abhors it; our bill of rights declares the necessity of keeping them separate and distinct in their respective spheres of action; and all must concur in the safety of adhering as strictly as possible to this injunction. It is proper to